

REMARKS

Applicant has amended claims 1, 2, 5, 6, 7, 17, 18, 19 and 20. Claims 9-16 have been canceled. New claims 21-24 have been added. These amendments have been made to place them in better form for examination and to further obviate the 35 U.S.C. §102(b) and 112 rejections as set forth in the Office Action dated August 6, 2004. It is believed none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections is respectfully requested.

The Examiner has objected to claims 1, 2, 7, 12 and 14 for inclusion of blank lines. The Examiner is correct in his assumption that the blanks will be replaced with the deposit accession number.

Claims 1-20 are rejected under 35 U.S.C. §112, first paragraph, as containing subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. A deposit of the 01Z34 cotton seeds is being maintained at Delta and Pine Land's Scott, Mississippi facility until allowance of the claims of the present invention. At that time, Applicant will deposit the seeds with ATCC and insert the Accession Number into the remaining claims. Additionally the undersigned avers that:

- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit; and
- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 9-11, 13-15 and 18-20 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has canceled claims 9-15 and amended claims 18-20. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 9-11, 13-15, and 18-20 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant has canceled claims 9-15 and amended claims 18-20. Withdrawal of this rejection is respectfully requested.

Claims 7, 16, and 19 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner has rejected claim 7 as indefinite. Applicant has amended claim 7 as suggested by the Examiner. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 16 and 19 as being indefinite because “transgene is selected from the group consisting of: herbicide resistance, insect resistance, and disease resistance” is confusing. Applicant has canceled claim 16 and amended claim 19. Withdrawal of this rejection is respectfully requested.

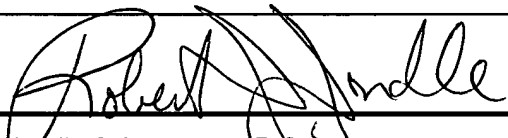
The Examiner has additionally rejected claim 16 as being indefinite in its recitation of “the cotton plant, or parts thereof, of claim 2, wherein the plant or parts thereof [has] been transformed.” Applicant has canceled claim 16 and presented new claims 23 and 24. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 15 under 35 U.S.C. §102(b) as being anticipated by Gutierrez et al (Crop Sci. 42: 1841-1847, 2002). Applicant has canceled claim 15. Withdrawal of this rejection is respectfully requested.

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In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §§102(b) and 112. Reconsideration of this application and early notice of allowance is requested.

RESPECTFULLY SUBMITTED,					
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